at Paris in 1898. While the present translation is from the second edition in 1908, the text of the lectures remains substantially unchanged. As stated by the author, when beginning the preparation of the second edition, he

"decided to retain the chapters which had their initiative ten years ago, and to look upon them somewhat as an expression of the period, as reflecting a phase of legal thought; for therein lies their value. In themselves they may now have but slight value; as an historical document, they may still be of use."

As an exposition of the current thought of the time with respect to crime and its treatment, the present translation will be of much service to all interested in the scientific improvement of the criminal law. The value of the book is greatly enhanced by the suggestive introduction by Professor Pound, who points out that after all the movement for individualization in the criminal law is but a phase of the general movement for individualizing the application of all legal rules; that in the criminal law the aim should be to achieve what has been achieved in our courts of equity, a system of legal individualization.

The first chapter is devoted to a statement of the problem. This is followed by a history of punishment, which while rather general and cursory, is sufficient, considering the author's purpose. Then comes a review and criticism of the various schools of criminology; the classic school; the neo-classic school and individualization based upon responsibility; the Italian school and individualization based upon formidability. This review of the position of the various schools is illuminating, and in reasonably brief compass gives the reader a good general notion of the situation. Two chapters are devoted to the doctrine of responsibility, and responsibility and individualization, in which he discusses the position of the classic school and its doctrine of free will and the position of the Italian school and its theory of determinism, and then proposes a mediating view, namely: Responsibility as the basis of punishment and individualization as the criterion of its application.

"The conception of punishment implies responsibility. One must believe in responsibility in order that a measure taken against an offender shall be a punishment. But the application of punishment is no longer a matter of responsibility but of individualization. It is the crime that is punished; but it is the consideration of the individual that determines the kind of treatment appropriate to his case."

The remaining chapters are devoted to a system of legal, judicial, and administrative individualization based upon the mediating view thus announced. In the application of the penalty the latent and potential criminality as well as the criminality actually manifested by action should be considered. The treatment to be applied should be based upon a consideration of what the offender is, as well as upon a consideration of what he has done; thus requiring that the criminal law should seek to develop and strengthen moral character as well as regulate and punish conduct. E. A. G.

CAPTURE IN WAR ON LAND AND SEA. By Hans Wehberg. Translated from Das Beuterecht im Land- und Seekriege. With an introduction by John M. Robertson. London: P. S. King and Son. 1911. pp. xxxv, 210.

The principle of naval warfare permitting a belligerent to seize an enemy's shipping, though privately owned, and this not to aid in carrying on the operations of war, but merely to enrich the captured state, has long been under attack. Dr. Wehberg has written in the present volume an exhaustive argument against this law of prize. Somewhat the larger portion of the work is given to exposition and analysis of the present law in regard to capture of both private and public property on land and on sea. One feels, however, that this is but introductory to the argumentative portion of the work.

The author says that the rule is anomalous, as private property is on land

subjected only to the necessities of war, while the character of the law of prize is plainly indicated by the fact that most powers assign prize money in whole or in part to the crew of the capturing vessel; and argues that as war has come to be recognized as creating "legal relations" between states and not between individuals, it should follow that on sea as on land the property rights of an enemy's subject should be violated only in case of military necessity. To the fact that the law of capture at sea really applies to enemies' commerce as distinguished from mere property, Dr. Wehberg replies that while the enemy's merchant marine may be crippled its commerce may be preserved by the use of neutral shipping, and examines the experience of a long series of wars to demonstrate that the exercise of this right of capture has never been decisive of any war, and is not necessarily indicative of the result.

Mr. Robertson in the introduction joins with great emphasis in Dr. Wehberg's position that England, which has been the leading supporter of the law of prize, is, because of its great shipping interests, the most interested in its abolition. Mr. Robertson also feels that the step he advocates would check the tendency to excessive armaments and would tend to prevent warfare. Indeed, he advocates the abolition of the law of prize as an agreement to be made in connection with an agreement limiting armaments.

Though we may not feel as strongly as do Dr. Wehberg and Mr. Robertson that the retention of the law of prize is plainly indefensible and clearly contrary to the selfish interest of England, we are nevertheless indebted to them for a forceful presentation of the considerations in favor of the traditional position of the United States of America. A. R. G.

NEUTRALIZATION. By Cyrus French Wicker. London: Oxford University Press. 1911. pp. viii, 91.

This small volume is divided into four parts: I. Analysis of permanent neutrality; II. Treaties of neutralization; III. Effects of neutralization; IV. The United States and neutralization. A bibliography is appended. The book is readable and interesting. For present purposes the most important passages are those in which it is pointed out that neutralization is not inconsistent with fortification and defense, that the United States can fortify the Panama Canal, and that the neutralization of the Panama Canal is a matter to which as yet only a small part of the world has assented (pp. 2, 43–47, 54, 57, 80). There is also a suggestive discussion of a possible neutralization of the Philippines (pp. 83–88). One small slip has been discovered — a misstatement of the position taken by Austria when Bismarck threatened a breach of the neutrality of Luxembourg (p. 8), but at a later place (p. 62) it is properly said that Austria joined Great Britain in protest,[1] and at any rate a small slip as to history does not essentially detract from the value of the book as a clear and rational discussion of a timely topic.

PRINCIPLES OF THE CONSTITUTIONAL LAW OF THE UNITED STATES. By Westel W. Willoughby. New York: Baker, Voorhis and Company. 1912. pp. l, 576.

This is an abridgment of the author's two-volume treatise, entitled The Constitutional Law of the United States, which was reviewed in the HARVARD LAW REVIEW, vol. 24, p. 587. The abridgment has been made so skilfully that it is, like the original work, interesting and well-proportioned. There

[1] Wheaton's International Law, Atlay's ed., § 422 *a*.